

in doubt. We used these words, anachronistic, outmoded, let me tell you exactly what it means:

There never was a better opportunity to have a verdict brought in that did not meet with the law than there is under this kind of an old, outdated rule..

Here is what happens. If you are involved in a simple automobile accident case, personal injury or property damage, the judge will turn to the jury and give them his instructions on the law. He will tell the jury what the law is, and he will tell them that they are bound by his statement to them of what the law is.

And the jury in its function as a fact-finding body decides what the facts are under the law as the court has given it to them, each taking its own place in our scheme of justice.

But when you come to a criminal case which may be one involving the question of whether the crime was robbery, whether it was receiving stolen goods, whether it was larceny or whether it was embezzlement, and all the complications involved in all of those descriptions of what the law may be, the judge has to say to the jury: "Ladies and gentlemen of the jury, what I have told you about the law is not binding on you. It is advisory only."

In other words, a jury of lay people is supposed to be able to figure out for themselves what the complicated law may be in a given case.

Now, if they get fooled and the verdict is not guilty, there cannot be another trial, there cannot be any correction of it. All I can say to you is this: Somebody somewhere ought to be thinking of that great body of people and that is those who are the general public. I am in favor of all the restraints and restrictions, even those that have come down from the Supreme Court benefit and protect the individual on trial. But I want to say to you that we have imbedded in our Constitution one restraint and restriction on a fair trial and we have a chance to take it out. We ought to take it out. It is old, and it does not serve a proper purpose.

I hope you vote for the amendment.

DELEGATE JAMES (presiding): Does Delegate Sollins wish to speak against the amendment?

DELEGATE SOLLINS: I wish to ask Delegate Moser a question.

DELEGATE JAMES (presiding): Will Delegate Moser yield to the gentleman?

DELEGATE MOSER: Yes, I will yield, sir, and after I answer I would like to correct the record.

DELEGATE SOLLINS: In the event your amendment is approved, will not the legislature be able to re-establish this rule by statute?

DELEGATE MOSER: I am not sure. I cannot answer the question. They might be able to.

DELEGATE SOLLINS: I have another question.

DELEGATE JAMES (presiding): Delegate Sollins.

DELEGATE SOLLINS: In the event your amendment is approved, and it is not in this Constitution, and the Constitution is ratified, what will be the rule, in effect, in criminal jury trials from May 14, 1968 until such time as the General Assembly chooses to act, or not to act.

DELEGATE JAMES (presiding): Delegate Moser.

DELEGATE MOSER: If the Constitution is effective on July one of this year, which I would assume it would be, the law would be just exactly what it is in every other state. The law of Maryland, now, as it stands, does not differ from other jurisdictions in the Green case type situation, as I understand that case. It is the same.

DELEGATE JAMES (presiding): Delegate Sollins:

DELEGATE SOLLINS: Just one last question:

Do you think any transitional legislation will be required in the event your amendment is approved.

DELEGATE JAMES (presiding): Delegate Moser.

DELEGATE MOSER: I would not think that it is required. If you feel that it is, I am sure the committee that is considering it would take it under advisement.

DELEGATE JAMES (presiding): Does anyone wish to speak against the amendment?

For what purpose does Delegate Moser rise?

DELEGATE MOSER: I would like to correct one statement which I made which corrected some misunderstanding.

When I presented this, I said an injustice occurred in a case that I prosecuted,